

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JANET L. OSBORNE, M.D., FACOG, FACS,

Plaintiff,

v.

BED BATH & BEYOND INC.

and

LOSOREA PACKAGING INC.

Defendants.

Case No.: 7:12cv00099

PLAINTIFF JANET OSBORNE'S SUPPLEMENTAL SUBMISSION
IN OPPOSITION TO BED BATH & BEYOND INC.'S
MOTION FOR LEAVE TO FILE THIRD PARTY COMPLAINT

The plaintiff, Janet L. Osborne, M.D. ("Osborne"), by counsel, submits as *Exhibit A-D*, additional pleadings from the United States Bankruptcy Court, Northern District of Georgia, Atlanta Division regarding the procedure in place for the distribution of the assets of Napa Home & Garden, Inc. ("Napa") and Fuel Barons, Inc. ("Fuel Barons") and regarding Bed Bath & Beyond, Inc.'s ("BBB") mechanism to obtain discovery from both Fuel Barons and Napa. It is apparent from this documentation, as well as the Bankruptcy Order already reviewed by this Court, that there is no good cause to allow BBB to file a Third Party Complaint herein, when no assets will exist at the end of Dr. Osborne's trial in July of 2013 to satisfy any third party judgment obtained by BBB and when BBB already has a mechanism to conduct discovery against these entities without formally naming them as third party defendants in this action. Finally, BBB can accomplish the same end it desires to achieve by filing a separate contribution action against Napa and/or Fuel Barons to preserve its rights

should it so desire, or it can do so after the trial of this action. For these reasons, and those previously stated, plaintiff Osborne respectfully urges this Court to deny the pending Motion.

Respectfully submitted,

JANET L. OSBORNE, M.D., FACOG, FACS

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of August, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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